

REMARKS

This Amendment is a full and timely response to the Office Action dated March 31, 2004. Reexamination and reconsideration are respectfully requested.

Claim for Priority and Submission of Certified Translation Thereof

It is noted with appreciation that the Action acknowledges receipt of the priority document in support of the claim for foreign priority. It is noted that the Ueyanagi patent, cited in connection with the rejections discussed supra was issued on March 2, 2004 based on an application actually filed on December 26, 2000 in the United States. In contrast, the subject application was filed on April 13, 2001 claiming priority on the basis of a corresponding Japanese application filed on April 14, 2000. Thus, a certified translation of the priority document is provided to antedate the Ueyanagi reference.

Information Disclosure Statement

Copies of the documents cited and briefly discussed at page 2 of the specification as filed, together with an authorization to charge the deposit account of the undersigned, are provided. The documents are identified on the accompanying PTO-1449 Form. Please take these documents into account in the next examination of this application, together with the materials at pages 1 and 2 of the specification as filed.

Rejection of Claims 1 and 7 to 9

Claims 1 (generic) and 7 to 9 were initially rejected as anticipated by the patent to Ueyanagi, noted above, and antedated by the submission of the certified copy of the priority document. Since there are no other art-based rejections, the pending claims are in condition for allowance pending successful argument overcome all other formal matters raised in the Action.

Because claim 1 is admittedly generic (see the first paragraph of the findings of the examiner at the top of page 2 of the Action), and its rejection overcome, it is *prima facie* allowable. Upon allowance of the generic claim 1, rejoinder of the remaining species claims 2 to 6 is respectfully requested. Minor conforming amendments are made to claims 3, 4 and 5 for form.

Claims 10, 11 and 12

Claim 12 was held to be allowable and is retained unamended.

Claims 10 and 11, respectively dependent on claim 7, are rewritten in independent form to take advantage of their indication of allowability, notwithstanding the submission of the certified copy of the priority document. These claims are thus also allowable for the reasons found by the examiner in the initial Action.

Drawings

The drawings were objected to in that no drawing seemed to the examiner to support claim 13 referring to an optical recording medium having a conductive material. Fig. 8 has been modified without the introduction of new matter to refer to the conductive material in the elliptical outset. Approval of this change is respectfully requested. At least the Martin et al. article, "Optical data storage read out at 256/Gbits/In²" shows in Fig. 1 a conductive film on an SiO₂ layer. Support is also found at least at page 11, lines 16 – 17.

Rejection of claims 13 and 14 under 35 USC §112, first paragraph

Claims 13 and 14 were rejected for an alleged lack of description of an optical recording medium having a conductive material. Reference to the correction of Fig. 8 of the drawings is noted. Support for the claim language is found at least at page 11, lines 16 and 17, and in the article noted that had been cited in the specification. Withdrawal of the rejection is warranted and solicited.

Rejection of claim 13

Claim 13 had been rejected for allegedly lacking an antecedent basis for "the optical recording medium" apparently referring to the last line of the claim. Antecedent basis is found two lines before the noted language referring to, in the detecting step, "an optical recording medium". Withdrawal of this objection without amendment is respectfully requested and warranted.

Specification

The specification has been reviewed to prepare this application for final printing in view of the indication of allowable subject matter. Entry of these changes is solicited; none involves new matter.

Reasons for allowance

The reasons for the indication of allowable subject matter for the allowed and allowable claims are noted with appreciation.

Conclusion

Claims 1 to 14 as amended are now free from section 112 rejections or objections, and are free from the reference as applied with the submission of a certified copy of the priority document.

Dated: June 30, 2004

Respectfully submitted,

By _____

Ronald P. Kahanen
Registration No.: 24,104
RADER, FISHMAN 7 GRAUER PLLC
1233 20th St., N.W.
Suite 501
Washington, DC 20036
(202)955-3750
Attorneys for Applicant
Customer No. 23353

JUN 30 2004
U.S. TRADEMARK REGISTRY
8651

ANNOTATED SHEET

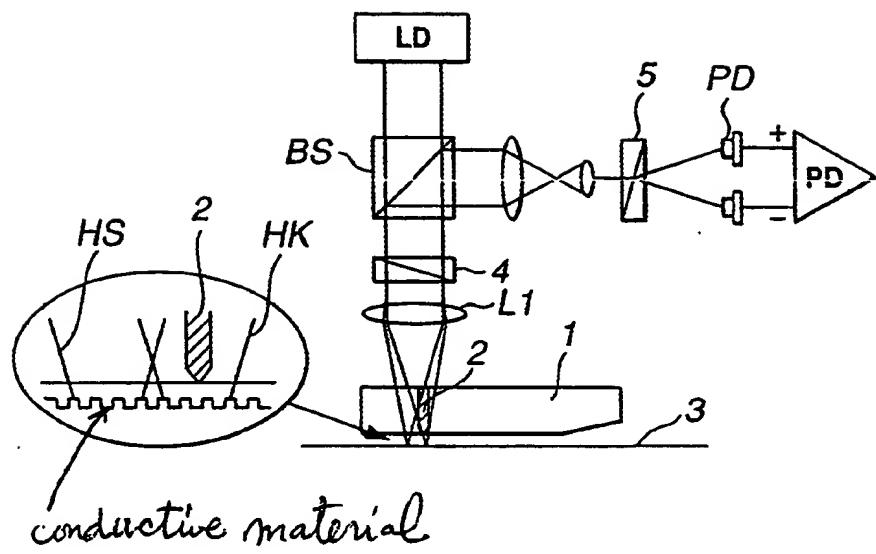


FIG.8